

REMARKS

Claims 1-6 are pending in the above-identified application and stand ready for further action on the merits.

Claim Rejections Under 35 USC § 102/103

Claims 1-2 and 6 have been rejected under 35 USC § 102(e) as being anticipated by Yoshioka (US 6,156,023). Further, claims 3-5 have been rejected under 35 USC § 103(a) as being unpatentable over Yoshioka. Reconsideration and withdrawal of each of these rejections is respectfully requested based on the following considerations.

Rejection Under 35 USC § 102(e)

It is the required element for the present invention that the elastic members 54d are disposed and fixed to the approximately widthwise central portion of the raised portion 5B between the skin-contacting surface portion 5A and the base end 52 of the three-dimensional guard.

In contrast, the barrier cuff 19 of Yoshioka et al. (US '023) is not provided with the elastic member in the supporting wall section 16 which corresponds to the raised portion of the present invention.

Accordingly, based upon the above considerations, it is clear that the cited Yoshioka et al. reference is incapable of anticipating Applicants' claimed invention, since it does not provide for each of the limitations found in the present claims (*see claim 1, instantly pending*).

Rejection Under 35 USC § 103(a)

In the present invention, the skin-contacting surface portion 5A is formed by folding back a side on a free side towards the outer side in the widthwise direction of the absorbent article, and the skin-contacting surface portion 5A is extended outwardly in the widthwise direction of the absorbent article.

In a case where the three-dimensional guard has a skin-contacting surface portion 5A which extends towards the outer side in the widthwise direction of the absorbent article, the three-dimensional guard tends to cover the part which absorbs the body fluid, which may result in leakage. This is especially true when the space for allowing the three-dimensional guard to raise upward is not formed between the wearer's skin and the topsheet, either because the wearer's skin and the topsheet are brought into close contact during wear, or when the raised portion is twisted due to the high flexibility of the sheet material of the three-dimensional guard.

The present invention can prevent such disadvantages by disposing and fixing the elastic members 54d to the approximately widthwise central portion of the raised portion 5B.

Yoshioka et al. do not teach to dispose and fix the elastic member to the raised portion 5B and the advantages obtained therefrom which have been discussed in the preceding paragraph.

Based on the above considerations, it is clear that in the Yoshioka et al. reference there is provided no motivation or teaching which would allow one of ordinary skill in the art to arrive at the present invention as claimed. Absent such motivation and teachings in the cited art, it is clear that the outstanding rejection under 35 USC § 103(a) must be withdrawn.

CONCLUSION

Based upon the above considerations, it is submitted that each of the pending claims 1-6 are now in condition for allowance, in as much as the cited Yoshiyoka et al. reference completely fails to anticipate or render obvious any of the pending claims under consideration.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John W. Bailey (Reg. No. 32,881) at the

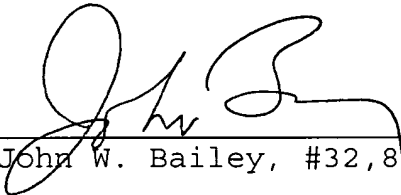
Appl. No. 10/019,650

telephone number below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By  _____
John W. Bailey, #32,881

JWB/enm
0445-0316P

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000